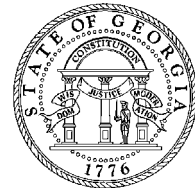


# GEORGIA REVENUE QUARTERLY



Sonny Perdue, Governor

Bart L. Graham, Commissioner

## Graham Appointed Revenue Commissioner

**B**art L. Graham was sworn in as the Georgia Department of Revenue Commissioner by Governor Sonny Perdue on June 12.

The new Commissioner most recently served as Georgia's Deputy Chief Financial Officer. He assisted in developing legislative agendas for state agencies and a long-term financial strategy for the state.

Prior to that appointment, Commissioner Graham served as chief financial officer for then Governor-elect Perdue's Transition to the New Georgia, Inc., where his responsibilities included finance, banking, contract negotiations, accounting, taxes, audit and risk management.

Formerly Graham was chief financial

officer and corporate secretary at Seventh Wave Technology, Inc. and chief financial officer of Bank Atlanta.

During his tenure with Seventh Wave Technology and Bank Atlanta, Graham was also a partner with Tatum CFO Partners, LLP. Prior to this, Graham

was Senior Vice President - Syndications

of Wachovia Capital Markets.

Graham began his career with Wachovia Bank where he spent eight years as a corporate banker with market responsibilities around the southeast United States.

Commissioner Graham graduated with honors earning a Bachelor of Science degree in Business Administration in Finance. He also has a Masters of Business Administration in Finance. Both degrees are from The University of Tennessee - Knoxville. He and his wife Susan have two children, a daughter and a son.

Commissioner Graham replaces T. Jerry Jackson who joined the law firm Troutman Saunders in Atlanta.



*Commissioner Graham*

## 2003 Legislative Tax Summary

### Summation H.B. 43

#### **Section 2 – Annual Income Tax Conformity Provision - Effective June 4, 2003.**

This section amends O.C.G.A. § 48-1-2 to update the definition of the Internal Revenue Code of 1986 from Jan. 1, 2002 to Jan. 1, 2003. This update includes all applicable provisions of federal tax legislation signed into law during 2002 (as they relate to the computation of federal adjusted gross income and federal taxable income), except it specifically excludes the 30 percent bonus

depreciation and any net operating loss changes passed in 2002 by the federal government. Section's provisions are applicable to taxable years beginning on or after Jan. 1, 2003.

#### **Section 3 - Remittance of Withholding Taxes via Electronic Funds Transfer - Effective June 4, 2003.**

This section amends O.C.G.A. § 48-7-32. It requires employers, who withhold taxes in excess of \$50,000 for the yearly 12-month look back period ending the preceding June 30, to remit the taxes via electronic funds transfer. This is similar to federal requirements. Employers are required to remit withholding taxes required to be withheld via electronic funds transfer depending upon the day of the week the payday occurs. If the payday occurs on Wednesday, Thursday, or Friday, the employer must remit the taxes on or before the following Wednesday. If the payday occurs on Saturday, Sunday, Monday or Tuesday, the employer must

remit the taxes on or before the following Friday. If an employer's withholding taxes exceed \$100,000 for the payday, the taxes must be remitted the following banking day. Section's provisions are applicable to all calendar quarters beginning on or after April 1, 2004.

#### **Section 4 – Increase in Retirement Exclusion - Effective Jan. 1, 2006.**

This section increases the retirement exclusion currently allowed pursuant to O.C.G.A. § 48-7-27(a)(5)(A). For taxable years beginning on or after Jan. 1, 2006 and prior to Jan. 1, 2007, the retirement exclusion increases from \$15,000 to \$25,000. For taxable years beginning on or after Jan. 1, 2007 and prior to Jan. 1, 2008, the retirement exclusion increases to \$30,000 and increases to \$35,000 for taxable years beginning on or after Jan. 1, 2008.

#### **Section 5 – Combat Zone Income Exclusion - Effective June 4, 2003.**

This sec-

### Last Issue

**T**his will be the last printed issue of the Revenue Quarterly. Future issues can either be received by e-mail or viewed on-line at the Department's web site [www.gatax.org](http://www.gatax.org). If you would like to receive future issues via e-mail, please submit your e-mail address to [cwwilley@gatax.org](mailto:cwwilley@gatax.org)

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# 2003 Legislative Tax Summary

tion of the bill includes provisions also contained in H.B. 383. It excludes income received by a member of the National Guard or any reserve component of the armed services stationed in a combat zone pursuant to military orders. This section is applicable to all taxable years beginning on or after Jan. 1, 2003.

**Section 6. – Low Emission Vehicle Credit-Effective June 4, 2003.** This section adjusts the amount of the low-emission and zero-emission vehicle tax credits.

- Previously, a low-emission vehicle was allowed a credit of \$2,500. Now a credit of the lesser of 10 percent of the cost of the vehicle or \$2,500 is allowed.
- Previously, a zero-emission vehicle was allowed a credit of \$5,000. Now a credit of the lesser of 20 percent of the cost of the vehicle or \$5,000 is allowed.
- Previously, a credit up to \$2,500 was allowed for the conversion of a vehicle. Now the credit allowed is 10 percent of the cost of conversion, not to exceed \$2,500 per converted vehicle.
- Previously, a business enterprise was eligible for a credit of \$2,500 for the purchase of an electric vehicle charger. Now the credit allowed is the lesser of 10 percent of the cost of the charger or \$2,500.

This section is applicable to all taxable years beginning on or after Jan. 1, 2003.

**Section 7 – Headquarters Credit - Effective June 4, 2003.** This section of the bill enhances the headquarters job tax credit by allowing more companies with several subsidiaries to qualify and by lowering the current new headquarters job creation requirement from 100 to 50. The credit is \$2,500 per job or \$5,000 per job if the average pay is 200 percent above the county average wage. The credit is first used to offset any income tax liability. Excess credit can be used to offset employee withholding taxes. Unused tax credits have a 10-year carry forward. This section of the bill is applicable to taxable years beginning on or after Jan. 1, 2003.

**Section 8 – Mega Project Tax Credits. Effective June 4, 2003.** This section of the bill creates new code sections, which create tax credits for manufacturers.

Creates Code Section 48-7-40.24, which provides a job tax credit of \$5,250 per job for five years to a business enterprise that creates a minimum of 1,800 new eligible full-time jobs and purchases or acquires a minimum of \$450 million in qualified investment property for a new manufacturing facility by the close of the sixth taxable year following the withholding start date. The maximum number of jobs for which credit can be taken is 3,300. Taxpayers failing to meet any yearly requirements forfeit 20 percent of all credits provided by this Code section. No other credits can be taken with respect to the project except for retraining and that credit can only be taken more than five years after the manufacturing facility first becomes operational.

Creates Code Section 48-7-40.25 which provides an incentive for manufacturers, who operated a manufacturing facility in Georgia for at least three years and spend \$800 million on a new manufacturing facility in Georgia. There is also a requirement that the number of full-time employees equal or exceed 1,800. However, these do not have to be new jobs to Georgia. The benefit awarded to a manufacturer is a credit against taxes equal to six percent of the cost of all qualified investment property purchased or acquired. The total credit allowed is limited to \$50 million. The credit offsets any income tax and any excess is allowed as a credit to offset withholding taxes. There is a 15-year carry forward of any unused tax credit. This section of the bill is applicable to taxable years beginning on or after Jan. 1, 2003.

**Section 9 – Change in Threshold for Remitting Withholding Taxes - Effective June 4, 2003.** This section of the bill adjusts the threshold for employers who remit withholding taxes on a monthly basis. Employers who withhold tax equal to \$50,000 or less for the yearly 12-month look back period ending the preceding June 30 are required to file and remit taxes on the 15<sup>th</sup> day of the following month. This section of the bill is applicable to all calendar quarters beginning on or after April 1, 2004.

**Sections 10, 14, 15, 16 and 17 – Payment of Second Motor Fuel Tax and One Percent State Sales Tax - Effective Jan. 1,**

**2004.**

**Section 10** defines the four percent Prepaid State Tax as being the three percent second motor fuel tax and the one percent state sales tax on motor fuels. That it shall not include any of the local sales taxes on motor fuels

**Section 14** eliminates the “estimated sales tax” requirement from retail dealers who primarily sell motor fuel and remit the Prepaid State Tax to their wholesale motor fuel distributor.

**Section 15** removes the three percent vendors’ compensation allowance from the Prepaid State Tax.

**Section 16** defines the Prepaid State Tax in the motor fuel law (OCGA 48-9-14). It imposes the collection and payment of the prepaid state tax on the distributor. It authorizes the Revenue Commissioner to calculate on a semiannual basis the rate of prepaid tax at four percent of the state-wide average retail price by motor fuel type as compiled by the Energy Information Agency of the United States Department of Energy, the Oil Pricing Information Service, or a similar reliable published index excluding state and local taxes. If the retail price changes by 25 percent or more within a semiannual period, the Commissioner shall issue a revised prepaid state tax rate for the remainder of that period. Finally, this section establishes that the motor fuel distributor shall collect the tax at the same time the 7.5 cents per gallon tax (1<sup>st</sup> motor fuel tax) is collected.

**Section 17** establishes the penalties and interest for the Prepaid State Tax in the motor fuel law.

**Section 11 – Prescription Contact Lenses - Effective June 4, 2003.** This section of the bill amends OCGA 48-8-3(47) to provide for a sales tax exemption on free samples of prescription contact lenses not intended for resale distributed by the manufacturer to licensed dispensers.

**Section 12. – Sales Tax Holiday; Aquarium Construction - Effective June 4, 2003.** This section of the bill incorporates the provisions of HB 542 and amends OCGA 48-8-3(75) to provide for a sales tax holiday from July 31 through August 3, 2003 for clothes, computers and accessories,

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# 2003 Legislative Tax Summary

and school supplies. The section also provides for a new exemption on tangible personal property that is sold to be or is used in the construction of an aquarium owned or operated by an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The exemption for the aquarium is effective June 4, 2003 until Jan. 1, 2007.

**Section 13 – Technical Correction for Local Tax - Effective June 4, 2003.** This section of the bill amends O.C.G.A. 48-8-6 by providing a technical correction to change the type of Special Purpose Tax that could exclude MARTA tax from the two-percent local county tax limitation.

**Sections 18 through 39 and Sections 42 through 44 - Tobacco Tax - Effective July 1, 2003.** These sections of the bill add a definition of loose or smokeless tobacco and subject loose or smokeless tobacco to the excise tax on tobacco as follows:

- **Little cigars** – increased from 2 mills (\$.002) each to 2½ mills (\$.0025) each
- **Other cigars** – increased from 13 percent to 23 percent of the wholesale cost price
- **Cigarettes** – increased from 12¢ to 37¢ per pack of 20 cigarettes
- **Cigarettes** – increased from 15¢ to 46.25¢ per pack of 25 cigarettes
- **Loose or smokeless tobacco** – creates a new tax of 10 percent of the wholesale cost price

Bill adds a penalty of \$25 per individual container of non tax-paid loose or smokeless tobacco being transported in Georgia that is not supported by the appropriate invoices or delivery tickets.

**Sections 40 and 41 - Implementation of Investments of Certified Capital Companies and Earning of Premium Tax Credits** - These sections of the bill change the effective date of the implementation of Chapter 18 of Title 48 from March 1, 2003 until July 1, 2004. Changes the effective date for which credits can be taken against the state insurance premium tax liability from July 1, 2005 to July 1, 2007.

**Sections 45. and 46 - Homeowners**

**Tax Relief Grant** - These sections of the bill amend Code Sections 36-89-2 and 36-89-3. Each year, the general assembly shall appropriate to the Department of Revenue funds to provide homeowner tax relief grants at least at the same level specified in the Fiscal Year 2004 General Appropriations Act.

## Property Tax

**H.B. 290 – Riverside or Streamside Land - Effective Jan. 1, 2004.** Bill amends O.C.G.A. 48-5-7.4. Bill extends the current use assessment for ad valorem taxation for bona fide conservation use property to undeveloped riverside or streamside lands within buffer zones established by law or local ordinance and within which land disturbing activity is prohibited.

Bill further amends O.C.G.A. 48-8-6 (b) which limits any specific excise tax on prepared food and beverages not to exceed two percent.

**H.B. 413 – Storm Water Wetlands - Effective Jan. 1, 2004.** Bill amends O.C.G.A. 48-5-7.4. Bill extends preferential assessment of bona fide conservation use treatment to property which has been certified by the Department of Natural Resources as land constructed storm-water wetlands of the free-water surface.

**H.B. 506 – Manufactured Homes/ Mobile Homes - Effective May 31, 2003.** Bill Amends O.C.G.A. 8-2-180-191. Bill provides a specific procedure for manufactured housing, which is normally considered personal property unless it is or is to be permanently affixed to land, to become real property and vice versa. It also specifies that a manufactured home that has been classified as real property under this section shall not be a part of the mobile home class of property and instead shall be classified as real property on the tax digest.

**H.B. 527 – Farm Equipment in Inventory for Resale - Effective Jan. 1, 2004.** Bill amends O.C.G.A. 48-5-504. Bill declares that self-propelled farm equipment held in inventory by a dealer for sale or resale to be a separate class of property not subject to ad valorem tax.

**H.B. 531 – Environmentally Contaminated Property - Effective May 14, 2003.** Bill amends O.C.G.A. 48-5-2 and 48-5-7.6. Bill provides for the preferential assessment of environmental and contaminated property by freezing the value for 10 years as an incentive for developers to cleanup and return the property to the tax rolls. This bill also allows an owner to recoup against taxes due certain eligible brownfield costs.

**H.B. 748 – Enterprise Zones - Effective July 1, 2003.** Bill amends O.C.G.A. 36-88-3. Bill extends special tax treatment for property declared an enterprise zone to retail businesses and includes property set aside primarily for day-care activities.

**S.B. 97 – Real Estate Transfer Tax - Effective July 1, 2003.** Bill amends O.C.G.A. 48-6-2. Bill takes the responsibilities previously handled by the Revenue Commissioner regarding the collecting and distributing of the real estate transfer tax and gives it to the Clerk of Superior Court. Bill allows internal real estate transfers to be exempt from the real estate transfer tax. This bill further permits the real estate transfer tax to be made on a form or in electronic format prescribed by the Revenue Commissioner. The determinations as to whether the real estate transfer tax is due and/or payable still remains with the Department of Revenue.

**S.B. 277 – Conservation Use Covenant Property - Effective July 1, 2003.** Bill amends O.C.G.A. 45-5-7.4. Bill allows conservation use covenant property to be renewed in the ninth year of the covenant for an additional 10 years to prevent any lapse in agreement.

## Income Tax

**H.B. 383 - Military Income Earned in a Combat Zone – Effective May 30, 2003.** Bill amends O.C.G.A. § 48-7-27. Bill contains identical verbiage as reflected in Section 5 of House Bill 43.

**H.B. 468 - Underpayment of Estimated Tax Penalty – Effective June 2, 2003.** Bill amends O.C.G.A. § 48-7-120. Bill changes the computation of the penalty for the underpayment of estimated tax so that it more

Georgia Department of Revenue  
Public Information Office  
1800 Century Center Boulevard  
Suite 15114  
Atlanta, GA 30345-3205  
Address Services Requested

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closely follows the federal computation. Bill is applicable to taxable years beginning on or after Jan. 1, 2003.

**H.B. 469 - Claim for Refund Filing Date – Effective June 2, 2003.** Bill amends O.C.G.A. § 48-2-35. Bill extends the time to file a claim for an income tax refund to three years from the later of the date of the payment of the tax or the due date of the income tax return (including extensions which have been granted). Bill is applicable to taxable years beginning on or after Jan. 1, 2003. Claims for refunds for taxes paid for taxable years 2002 and prior will continue to be subject to the prior laws.

**H.B. 504 - Claim for Refund – Effective May 30, 2003.** Bill amends O.C.G.A. § 48-2-35. The income tax portion of this bill prohibits the filing of a refund claim or lawsuit with respect to a refund claim on behalf of a class of taxpayers who are similarly situated. Bill applies to all claims for refunds filed or actions for refunds brought pursuant to Code Section 48-2-35 before, on, or after such effective date.

**H.B. 537 - Housing Tax Credits - Effective May 30, 2003.** Bill amends (O.C.G.A. § 33-1-18. Bill corrects a typographical error in previous legislation which added in-

surance companies to those eligible to use the Georgia low income housing tax credit.

**H.B. 556 - Augmentation of Commissioner's Powers – Effective June 2, 2003.** Bill amends O.C.G.A. §§ 48-3-29, 48-2-54.1, 48-7-56, and 48-7-80. Bill gives the Revenue Commissioner the authority to publish in the media or on the Internet for public access any or all information with respect to executions issued for the collection of any tax, fee, license, penalty, interest, or collection costs due the state which are recorded on the public records of any county. Section 2 of the bill grants the Revenue Commissioner the authority to charge the taxpayer's account with the costs or fees charged to the State by the United States Treasury Financial Management System for offsetting federal refund claims against any tax liability due to the state by the taxpayer. Sections 3 and 4 of the bill allow individual taxpayers that file returns electronically to file and remit any tax due on or before the due date allowed under the Internal Revenue Code of 1986 as it existed on or after Jan. 1, 2003.

**S.B. 247 - Georgia Green Space Trust Fund – Effective May 30, 2003.** Bill amends O.C.G.A. § 36-22-4. Bill allows contributions to the Georgia Green Space Trust

Fund on an income tax return. Taxpayer can donate all or any part of any tax refund due, by authorizing a reduction in the refund check. Taxpayers can also contribute any amount over and above any amount of tax owed by adding that amount to the their payment. This bill is applicable for income tax return years beginning on or after Jan. 1, 2004

### Sales And Use Tax

**H. B. 148 - Liquid Petroleum - Effective July 1, 2003.** Bill amends O.C.G.A. §48-8-3. Bill provides a new sales tax exemption on the sales of liquid petroleum or other fuels used in structures in which nursery products are raised for resale.

**H.B. 189 - Carpet Samples - Effective May 30, 2003.** Bill amends O.C.G.A. § 48-8-39. Bill defines the fair market value of carpet samples when these products are given away.

**House Resolution 261** establishes a House Study Committee on Sales Tax Simplification to review the issues related to the national Streamlined Sales Tax Project. The Committee is to recommend any action or legislation that is deemed necessary for Georgia to become a participate or implementing state in the project.

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